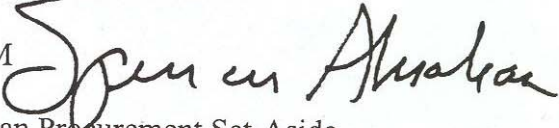




The Secretary of Energy
Washington, DC 20585

July 15, 2004

MEMORANDUM FOR ALL OF DEPARTMENTAL ELEMENTS

FROM: SPENCER ABRAHAM 
SUBJECT: Service-Disabled Veteran Procurement Set-Aside

On December 16, 2003, President Bush signed Public Law (P.L.) 108-183, the Veterans Benefit Act of 2003. Section 308 of this law, which amends the Small Business Act, provides Federal agencies with a procurement tool to foster the participation of service-disabled veteran-owned small business (SDVOSB) concerns as prime contractors.

An interim rule was published in the May 5, 2004, *Federal Register*, amending the Federal Acquisition Regulation to implement section 308. Under this section, contracting officers may restrict competition to SDVOSB concerns if there is a reasonable expectation that two or more SDVOSB concerns will submit offers and that the award can be made at a fair market price. In addition, they may award a sole source contract to a responsible SDVOSB concern if there is not a reasonable expectation that two or more SDVOSB concerns will submit an offer, the anticipated contract price (including options) will not exceed \$5 million (for manufacturing) or \$3 million otherwise, and the contract award can be made at a fair and reasonable price. The law limits use of SDVOSB procurement authority to procurements that would not otherwise be made from Federal Prison Industries (section 4124 or 4125 of title 18, United States Code) or the Javits-Wagner-O'Day (JWOD) Act (41 U.S.C. 46 et seq).

The Government-wide goal for participation by SDVOSB concerns is three percent of the total value of all prime contract and subcontract awards each fiscal year. To help meet that goal, the Department should utilize the new section 308 authority where feasible and appropriate.

The Department of Energy's fiscal year 2003 SDVOSB prime and subcontracting achievement was 0.02 percent and 0.16 percent, respectively. I encourage you to use this new procurement authority to improve this achievement.

For additional information or assistance with implementation of this important authority, contact Ms. Theresa Alvillar-Speake, Director of the Office of Small and Disadvantaged Business Utilization or Mr. Yosef Patel, Deputy Director, Office of Economic Impact and Diversity, at (202) 586-8383.

